THE HON'BLE SRI JUSTICE GODA RAGHURAM

AND

THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

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WRIT PETITION No.9713 OF 2006

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DATE: 09-05-2006

Between:

M/s.Sri Srinivasa Agencies, Sivakasi

and another ....Petitioners

and

Deputy Commercial Tax Officer-III,

Ananthapur. ....Respondent

THE HON'BLE SRI JUSTICE GODA RAGHURAM

AND

THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

WRIT PETITION No.9713 OF 2006

O R D E R: (per GR, J)

Heard Mr.M.V.J.K.Kumar for the petitioners and learned Government Pleader for Commercial Taxes for the respondent.

The Writ petition is directed against the impugned notice, dated 30-04-2006 of the respondent detaining the goods along with a lorry bearing Registration No.KA01/D-8485, purporting to exercise power under Section 45 of the Andhra Pradesh Value Added Tax Act, 2005, read with Rule 57 of the Rules made thereunder. There is a dispute as to the authenticity of the transaction claimed by the petitioners resulting in the detention of jaggery of 16200 kilos of a value of Rs.2,01,252/-.

According to the petitioners, the first petitioner is the proprietor of M/s.Sri Srinivasa Agencies, Sivakasi, in the State of Tamilnadu, and is a registered dealer under the provisions of the Central Sales Tax Act, 1956 vide a certificate issued by the Commercial Tax Officer, Sivakasi. He is in the business *inter alia* of jaggery and of edible oils. In the course of inter-state sale, the first petitioner claims to have effected sales of jaggery in quantity of 16200 kilos of aforementioned value and despatched the consignment to M/s.Krishna and Company, Raipur in Chattisgarh State. During the course of transit, the vehicle carrying the goods was intercepted at the check-post of the Commercial Taxes Department of the State of Andhra Pradesh at Somaladoddi Village near Anantapur District. The first petitioner issued the impugned notice calling for the petitioner's response to the proposal to levy the tax. Admittedly, the tax liability, even if the case of the revenue is eventually established, is of the order of 4% of the value of the goods. The first petitioner states that the commodity-jaggery is likely to melt during Summer season and therefore, the goods should be released in favour of the first petitioner pending determination and assessment of his liability, if any. He categorically contests his liability to tax.

In the aforesaid circumstances, the respondent is directed to release the goods of the first petitioner detained at Somaladoddi Village, Anantapur District, and in respect of which, Form 610- Notice has been issued by the respondent on 30-04-2006, on condition that he deposits to the credit of the respondent an amount representing 4% of the value of the goods as stated in the notice itself i.e. 4% of Rs.2,01,252/-. The deposit by the first petitioner shall be without prejudice to his claims in the assessment proceedings.

The writ petition is accordingly disposed of.

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(GODA RAGHURAM, J)

9th MAY, 2006.

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(M.VENKATESWARA REDDY, J)

Note: furnish copy by tomorrow.

B/o

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